THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 18284 of 2005

Dated: 18th August, 2005.

Between:

Begari Pentaiah

..... PETITIONER

AND

1. Anand Rao and six others

.....RESPONDENTS

ORDER:

This writ petition is filed seeking to declare the action of the sixth respondent-Mandal Revenue Officer, Saidabad Mandal, in demolishing the structure in premises bearing No.16-11-16/M/5/1/A, situated at Theegalguda, Moosarambagh, Hyderabad, as bad, illegal and contrary to *status quo* order passed in I.A.No.932 of 2001 in O.S.No.3098 of 2004 on the file of the VII Senior Civil Judge, City Civil Court, Hyderabad and further, to direct respondents 6 and 7 to reconstruct the demolished structure in the said premises.

2. The case of the petitioner is that he is the owner and possessor of House No.16-11-16/M/5/1/A, situated at Teelalguda, Moosarambagh, Hyderabad, which consists of open plot with a room in Survey No.74 admeasuring 100 square yards. The property

originally belongs to one Begari Ramakka, grandmother of the petitioner herein, who was gifted the said property in 1947 under a memorandum of declaration of gift by its previous owner one Nawab Liaquddin Khan, who was recorded as pattadar of the said Survey No.74. The Municipal Corporation of Hyderabad, under Notice bearing No.D/Dis.HC4/ROC/60/135/490, dated 04-11-1960, directed the said Ramakka to comply with certain directions for burial ground. The Corporation also collected taxes in that regard. Thereafter, another notice was issued by the Medical Officer, Health, Municipal Corporation of Hyderabad (M.C.H.), directing the said Ramakka to register with the M.C.H before 24-10-1964. The said Ramakka died on 18-09-1992 and prior to her death in 1976, she got executed a gift deed in favour of one B.Narasamma, mother of the petitioner herein, who was given the possession as a owner and she also enjoyed the same and she subsequently, executed a memorandum of gift on 10-01-1996 in favour of the petitioner herein. Pursuant to the gift deed, the petitioner also constructed a room on the said plot. The M.C.H has also got issued property tax receipts, which goes to prove that the petitioner is enjoying the property. While so, when respondents 1 to 4 were trying to dispossess the petitioner from the suit schedule premises, he filed the suit in O.S.No.5822 of 2001 on the file of the V Junior Civil Judge, City Civil Judge, Hyderabad, for perpetual injunction and obtained *status quo* order in I.A.No.932 of 2001, dated 01-05-2002. While the *status quo* order was subsisting, respondents 1 to 5 influenced the sixth respondent to demolish his constructed portion, by claiming that the property does not fall in Survey No.74 but falls in Survey No.13/2 in T.S.No.55 of Teegalguda. It is further submitted that in the said suit, the petitioner got impleaded respondents 5 and 6 as defendants and filed a petition for amending the suit from perpetual injunction to declaration and consequential mandatory injunction and after the amendment, the said suit was renumbered as O.S.No.3098 of 2004 and is pending on the file of the VII Senior Civil Judge, City Civil Court, Hyderabad. The petitioner has also issued a legal notice to the seventh respondent informing the illegal action of the sixth respondent, as *status quo* order was

pending and the M.R.O was bound to reconstruct the demolished structure. Hence this writ petition.

3. Heard the learned Counsel for the petitioner and the learned Government Pleader for Revenue appearing on behalf of respondents 6 and 7.

4. Considering the facts and circumstances of the case and without going into the merits of the case, I am of the opinion that the relief sought for cannot be granted in this writ petition filed under Article 226 of the Constitution of India, as it is the admitted case of the petitioner that he has already filed O.S.No.3098 of 2004 on the file of the VII Senior Civil Judge, City Civil Court, Hyderabad and obtained *status quo* order in I.A.No.932 of 2001, dated 01-05-2002. The petitioner can also approach the civil Court to seek the above said relief by filing another interlocutory application for reconstruction of the demolished structure in premises No.16-11-16/M/5/1/A situated at Theegalguda, Moosarambagh, Hyderabad.

5. Accordingly, the writ petition is dismissed at the stage of admission. No order as to costs.

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ELIPE DHARMA RAO, J

18th August, 2005.

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